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*Attorneys for Defendants*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA, HELENA DIVISION

**Bear Gulch Solar, LLC, Canyon Creek  
Solar, LLC, Couch Solar, LLC, Fox,  
Farm Solar, LLC, Glass Solar, LLC,  
Malt Solar, LLC, Martin Solar, LLC,  
Middle Solar, LLC, River Solar, LLC,  
Sage Creek Solar, LLC, Sypes Canyon  
Solar, LLC, Valley View Solar, LLC,  
Ulm Solar, LLC, Cypress Creek  
Renewables Development, LLC,**

Plaintiffs,

v.

**Montana Public Service Commission  
and Bob Lake, Travis Kavulla, Brad  
Johnson, Roger Koopman, and Tony  
O'Donnell, in their official capacities as  
Commissioners,**

Defendants.

**CV-18-6-H-CCL**

**Honorable Charles C. Lovell  
Montana  
Public Service Commission's  
Partial Motion to Dismiss  
and Motion for Stay**

Defendants Montana Public Service Commission, and Bob Lake, Travis

Kavulla, Brad Johnson, Roger Koopman, and Tony O'Donnell, in their official

capacities as Commissioners (collectively, “Commission” or “PSC”), by and through their counsel of record, Justin Kraske and Jeremiah Langston, move this Honorable Court for an Order dismissing Plaintiffs “as-applied” challenges raised in their Complaint and dismissing Cypress Creek Renewables Development, LLC as a Plaintiff pursuant to Fed. R. Civ. P. 12(b)(1) and (6). The Commission also requests this Honorable Court for an Order staying the Plaintiffs’ implementation challenge to the Commission’s existing Legally Enforceable Obligation standard pending ongoing rulemaking on the same matter. Finally, the Commission respectfully requests that it be permitted to file an answer, within fourteen days after the Court’s resolution of the Commission’s Motion, in the event the Plaintiffs’ entire Complaint is not dismissed or stayed.

Pursuant to Local Rules of Procedure 7.1(c), Counsel for Plaintiffs has been contacted and advised that they oppose this Motion.

Respectfully submitted this 13<sup>th</sup> day of March, 2018.

/s/ Jeremiah Langston  
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**CERTIFICATE OF SERVICE**

I certify that, on the 13<sup>th</sup> day of March, 2018, I filed the foregoing electronically with the Clerk of Court for the U.S. District Court for the District of Montana, Helena Division, using the CM/ECF system, which will then send notification of such filing (NEF) to the attorneys of record in this matter.

/s/ *Jeremiah Langston*  
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